

REMARKS/ARGUMENTS

I. AMENDMENTS

Claims 42-56 and 58-74 are pending and stand rejected. Claim 57 has been allowed by the Examiner (*see* Office Action mailed June 30, 2004, hereinafter "Office Action"). With entry of this Amendment, Applicants have canceled previously pending claim 64 and have amended claims 43, 52, 58 and 69. Support for these claim amendments can be found in the specification as originally filed, the claims as originally filed and the claims as previously pending and, thus, no new matter has been added. Applicants respectfully request reconsideration of the pending claims in view of Applicants' amendments.

II. RESPONSE TO CLAIM REJECTIONS UNDER 35 U.S.C. § 112, PARAGRAPH 2

Applicants appreciate the Examiner's allowance of claim 57 and the Examiner's detailed remarks and suggestions relating to the remainder of the pending claims. To facilitate the allowance of the remaining pending claims, Applicants have amended or canceled each of the claims explicitly rejected by the Examiner. Applicants note that claim 42 was listed as a rejected claim by the Examiner, but the Examiner did not provide any explanation for the rejection. Applicants respectfully submit that claim 42, as presented, is in condition for allowance.

With respect to claim 43, Applicants have amended the claim to recite "mammal" rather than "animal," as suggested by the Examiner. Applicants respectfully submit that the scope of the claim has not been changed by this amendment.

With respect to claim 52, the antecedent basis issues relating to the "foreign functional protein" and "the E1a deletion" have been addressed by amending the claim to depend from claim 51 rather than claims "42 or 43." The remainder of the claim has been amended to clarify that the "up to 40 nucleotide" sequence deletion is 3' to the recited DNA sequence deletions.

With respect to claim 58, the claim has been amended to recite the singular "cell."

With respect to claim 69, the antecedent basis issues relating to the "foreign functional protein" and "the E1a deletion" have been addressed by amending the claim to depend from claim 68 rather than claims "42 or 43." As with claim 52 (discussed above), the remainder of the claim has been amended to clarify that the "up to 40 nucleotide" sequence deletion is 3' to the recited DNA sequence deletions.

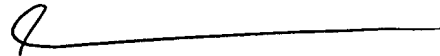
Claim 64 has been canceled.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 925-472-5000.

Respectfully submitted,



Chris J. Ullsperger
Reg. No. 48,006

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 925-472-5000
Fax: 415-576-0300

60260460 v1